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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,595	01/23/2004	Douglas Hamrick		8981

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DOUGLAS HAMRICK  
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Canal Winchester, OH 43110

EXAMINER
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HAN, JASON

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

11A

<b>Office Action Summary</b>	Application No. 10/764,595	Applicant(s) HAMRICK, DOUGLAS	
	Examiner Jason M. Han	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see Pages 10-80, filed Jun 6, 2005, with respect to the rejection(s) of Claim(s) 1-38 under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Schwartz (U.S. Patent 5697175).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 8-10, and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwartz (U.S. Patent 5697175).
3. With regards to Claim 1, Schwartz discloses an exit sign including:
  - A housing [Figure 1: (11)];
  - A plurality of LEDs [Figures 3-4: (39)] having the capability of being selectively activated to produce either red light or green light [Column 6, Lines 45-49], said plurality of LEDs being mounted in mutual lighting association in said housing;
  - Means for selective activation of said plurality of LEDs to produce either said red light or said green light [Column 9, Lines 6-26];

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- Means for passing light from selected said red light or selected said green light in the form of indicia symbolizing an exit enabling viewing by an observer [Figure 1: (13-18); Figures 3-4; (31)];
- Means for optically diffusing said light positioned in said housing juxtapositioned to said plurality of LEDs and said means for passing light [Figure 4: (42, 43)];
- DC circuitry [Figure 5] in operative electrical connection with said plurality of LEDs; and
- A source of electrical power activating said DC circuitry [Figure 5: (54, 55); Column 9, Lines 26-58].

4. With regards to Claim 2, Schwartz discloses the plurality of LEDs having the capability of being selectively activated by said means for selective activation to simultaneously emit both said red light and said green light so as to produce yellow light, and wherein said means for selective activation of said plurality of LEDs to produce both of said red light and said green light includes means to produce both said red light and said green light so as to produce said yellow light, wherein said yellow light passes through said means for passing light enabling viewing of said indicia by an observer [Column 6, Lines 62-67; Column 7, Lines 37-49].

5. With regards to Claim 3, Schwartz discloses the plurality of LEDs including a plurality of monochrome red LEDs and a plurality of monochrome green LEDs, whereby each said monochrome red LED having the capability of being activated by said means for selective activation to produce said red light, and each said monochrome green LED

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having the capability of being activated by said means for selective activation to produce said green light [Column 7, Lines 37-49; Column 9, Lines 8-11, 20-26].

6. With regards to Claim 4, Schwartz discloses the plurality of LEDs including a plurality of bicolor LEDs, whereby each said bicolor LED has the capability of being activated by said means for selective activation to produce either said red light or said green light [Column 6, Lines 62-67; Column 9, Lines 10-17].

7. With regards to Claim 5, Schwartz discloses the means for optically diffusing the light being an optical diffuser [Column 6, Lines 28-36].

8. With regards to Claim 8, Schwartz discloses the indicia symbolizing an exit being four independent letters forming the word "EXIT" [Figure 1: (13-16)].

9. With regards to Claim 9, Schwartz discloses the indicia symbolizing an exit including at least one symbol indicating an exit [Figure 1: (17-18)].

10. With regards to Claim 10, Schwartz discloses the means for passing light from selected said red light or selected said green light being in the form of at least one directional symbol enabling viewing by an observer [Figure 1: (17-18)].

11. With regards to Claim 13, Schwartz discloses battery means [Figure 5: (54)] for providing emergency DC power to said plurality of LEDs in the event of failure of electrical DC power [Column 9, Lines 37-40].

12. With regards to Claim 14, Schwartz discloses means for providing emergency light [Column 10, Lines 1-7] including a plurality of monochrome LEDs [Column 7, Lines 37-49; Column 9, Lines 8-11, 20-26], whereby said means for producing emergency light is in electrical connection to said battery means [Figure 5: (54)].

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13. Claims 15, 19-21, and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwartz (U.S. Patent 5697175).

14. With regards to Claim 15, Schwartz discloses an exit sign including:

- A housing [Figure 1: (11)];
- A plurality of monochrome red LEDs and a plurality of green LEDs [Figures 3-4: (39); Column 7, Lines 37-49; Column 9, Lines 8-11, 20-26] having the capability of being selectively activated to produce either red light or green light [Column 6, Lines 45-49], said plurality of monochrome red LEDs and said plurality of monochrome green LEDs being mounted in mutual lighting association in said housing;
- Means for selective activation of either said plurality of monochrome red LEDs to produce said red light or said plurality of monochrome green LEDs to produce said green light [Column 9, Lines 6-26];
- Means for passing light from selected said red light or selected said green light in the form of indicia symbolizing an exit enabling viewing by an observer [Figure 1: (13-18); Figures 3-4; (31)];
- Means for optically diffusing said light [Figure 4: (42, 43)] positioned in said housing juxtapositioned to said plurality of monochrome red LEDs and said plurality of monochrome green LEDs and said means for passing light;
- DC circuitry [Figure 5] in operative electrical connection with said plurality of monochrome red LEDs and said plurality of monochrome green LEDs; and

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- A source of electrical power activating said DC circuitry [Figure 5: (54, 55); Column 9, Lines 26-58].

15. With regards to Claim 19, Schwartz discloses the indicia symbolizing an exit being four independent letters forming the word "EXIT" [Figure 1: (13-16)].

16. With regards to Claim 20, Schwartz discloses the indicia symbolizing an exit including at least one symbol indicating an exit [Figure 1: (17-18)].

17. With regards to Claim 21, Schwartz discloses the means for passing light from selected said red light or selected said green light being in the form of at least one directional symbol enabling viewing by an observer [Figure 1: (17-18)].

18. With regards to Claim 24, Schwartz discloses the means for optically diffusing said red light and said green light being an optical diffuser [Column 6, Lines 28-36].

19. With regards to Claim 25, Schwartz discloses battery means [Figure 5: (54)] for providing emergency DC power to said plurality of monochrome red LEDs and said plurality of monochrome green LEDs in the event of failure of electrical DC power [Column 9, Lines 37-40, 59-67].

20. With regards to Claim 26, Schwartz discloses means for providing emergency light [Column 10, Lines 1-7] including a plurality of monochrome LEDs [Column 7, Lines 37-49; Column 9, Lines 8-11, 20-26], whereby said means for producing emergency light is in electrical connection to said battery means [Figure 5: (54)].

21. Claims 27-28, 31-33, and 36-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwartz (U.S. Patent 5697175).

22. With regards to Claim 27, Schwartz discloses an exit sign including:

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- A housing [Figure 1: (11)];
- A plurality of bicolor red and green LEDs [Figures 3-4: (39); Column 6, Lines 62-67; Column 9, Lines 10-17] having the capability of being selectively activated to produce either red light or green light [Column 6, Lines 62-67], said plurality of bicolor red and green LEDs being mounted in mutual lighting association in said housing;
- Means for selective activation of either said plurality of bicolor LEDs to produce either said red light or said green light [Column 9, Lines 10-17, 59-67];
- Means for passing light from selected said red light or selected said green light in the form of indicia symbolizing an exit enabling viewing by an observer [Figure 1: (13-18); Figures 3-4: (31)];
- Means for optically diffusing said red light or said green light [Figure 4: (42, 43)] positioned in said housing juxtapositioned to said plurality of bicolor red and green LEDs and said means for passing light;
- DC circuitry [Figure 5] in operative electrical connection with said plurality of bicolor red and green LEDs; and
- A source of electrical power activating said DC circuitry [Figure 5: (54, 55); Column 9, Lines 26-58].

23. With regards to Claim 28, Schwartz discloses the plurality of bicolor red and green LEDs having the capability of being selectively activated by said means for selective activation to simultaneously emit both said red light and said green light so as



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to produce yellow light, wherein said yellow light passes through said means for passing light enabling viewing of said indicia by an observer [Column 6, Lines 45-49, 62-67; Column 7, Lines 37-49].

24. With regards to Claim 31, Schwartz discloses the indicia symbolizing an exit being four independent letters forming the word "EXIT" [Figure 1: (13-16)].

25. With regards to Claim 32, Schwartz discloses the indicia symbolizing an exit including at least one symbol indicating an exit [Figure 1: (17-18)].

26. With regards to Claim 33, Schwartz discloses the means for passing light from selected said red light or selected said green light being in the form of at least one directional symbol enabling viewing by an observer [Figure 1: (17-18)].

27. With regards to Claim 36, Schwartz discloses the means for optically diffusing said red light and green light being an optical diffuser [Column 6, Lines 28-36].

28. With regards to Claim 37, Schwartz discloses battery means [Figure 5: (54)] for providing emergency DC power to said plurality of bicolor red and green LEDs in the event of failure of electrical DC power [Column 9, Lines 37-40, 59-67].

29. With regards to Claim 38, Schwartz discloses means for providing emergency light [Column 10, Lines 1-7] including a plurality of monochrome LEDs [Column 7, Lines 37-49; Column 9, Lines 8-11, 20-26], whereby said means for producing emergency light is in electrical connection to said battery means [Figure 5: (54)].

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

30. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz (U.S. Patent 5697175).

31. With regards to Claim 6, Schwartz discloses the claimed invention as cited above. In addition, Schwartz teaches the means for passing light in the form of indicia being a stencil defining light passageway openings forming said indicia [Figure 1; Column 5, Line 62 – Column 6, Line 2], whereby said light passing through said light passageway openings enable viewing of said indicia by an observer [Column 6, Lines 37-44]. Though Schwartz does not specifically teach the stencil being non-transparent, it would have been an obvious matter of design choice to modify the stencil to be non-transparent. In this case, a non-transparent stencil would provide a simple and inexpensive means to distinguish said indicia via contrast between said non-transparent areas and the light passageway openings.

32. With regards to Claim 7, Schwartz discloses the means for passing light in the form of indicia being a translucent stencil [Figure 1] having transparent areas forming said indicia [Column 6, Lines 28-36], but does not specifically teach the translucent stencil having non-transparent areas. However, it would have been an obvious matter of design choice to modify the stencil to incorporate the non-transparent areas, so as to provide a simple and inexpensive means to contrast the indicia with the background/non-transparent areas.

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33. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz (U.S. Patent 5697175) as applied to Claim 1 above, and further in view of Mueller et al. (U.S. Publication 2003/0133292).

Schwartz discloses the claimed invention as cited above, but does not specifically teach the means for selective activation to produce either of said red light or said green light being a two-position DIP switch (re: Claim 11), nor teaches said DIP switch including the capability to simultaneously activate both said red light and said green light so as to produce yellow light (re: Claim 12).

Mueller teaches, "These equations may be applied directly or may be used to create a look-up table so that binary values corresponding to a particular color temperature can be determined quickly. This table can reside in any form of programmable memory for use in controlling color temperature (such as, but not limited to, the control described in U.S. Pat. No. 6,015,038). In another embodiment, the light could have a selection of switches, such as DIP switches enabling it to operate in a stand-alone mode, where a desired color temperature can be selected using the switches, and changed by alteration of the stand alone product. The light could also be remotely programmed to operate in a standalone mode as discussed above [Page 17, Paragraph 188]."

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the exit sign of Schwartz to incorporate the DIP switch of Mueller so as to provide a quick, simple (single component) means in controlling color temperature, and thus enhance visibility or ostentatiously provide different warning illuminations.

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34. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz (U.S. Patent 5697175).

35. With regards to Claim 16, Schwartz discloses the claimed invention as cited above. In addition, Schwartz teaches the plurality of monochrome red LEDs and monochrome green LEDs having the capability of being selectively activated by said means for selective activation to emit both said red light and said green light [Column 6, Lines 45-49; Column 7, Lines 37-49], but does not specifically teach said means for selective activation to simultaneously emit said red and said green light to produce yellow light, wherein said yellow light passes through said means for passing light enabling viewing of said indicia by an observer.

However, Schwartz does teach bicolor LEDs, whereby said LEDs are fed with AC to concurrently emit red and green light, so as to mix to form yellow light [Column 6, Lines 62-67].

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the exit sign of Schwartz to incorporate the principle teaching of mixing red and green light to form yellow light, as taught by Schwartz, with the single monochrome colored LEDs, which are typically cheaper and inexpensive.

36. With regards to Claim 17, Schwartz discloses the claimed invention as cited above. In addition, Schwartz teaches the means for passing light in the form of indicia being a stencil defining light passageway openings forming said indicia [Figure 1; Column 5, Line 62 – Column 6, Line 2], whereby said light passing through said light passageway openings enable viewing of said indicia by an observer [Column 6, Lines

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37-44]. Though Schwartz does not specifically teach the stencil being non-transparent, it would have been an obvious matter of design choice to modify the stencil to be non-transparent. In this case, a non-transparent stencil would provide a simple and inexpensive means to distinguish said indicia via contrast between said non-transparent areas and the light passageway openings.

37. With regards to Claim 18, Schwartz discloses the means for passing light in the form of indicia being a translucent stencil [Figure 1] having transparent areas forming said indicia [Column 6, Lines 28-36], but does not specifically teach the translucent stencil having non-transparent areas. However, it would have been an obvious matter of design choice to modify the stencil to incorporate the non-transparent areas, so as to provide a simple and inexpensive means to contrast the indicia with the background/non-transparent areas.

38. Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz (U.S. Patent 5697175) as applied to Claim 15 above, and further in view of Mueller et al. (U.S. Publication 2003/0133292).

Schwartz discloses the claimed invention as cited above, but does not specifically teach the means for selective activation of said plurality of LEDs to produce either of said red light or said green light being a two-position DIP switch (re: Claim 22), nor teaches said DIP switch including the capability to simultaneously activate both said red light and said green light so as to produce yellow light (re: Claim 23).

Mueller teaches, "These equations may be applied directly or may be used to create a look-up table so that binary values corresponding to a particular color

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temperature can be determined quickly. This table can reside in any form of programmable memory for use in controlling color temperature (such as, but not limited to, the control described in U.S. Pat. No. 6,015,038). In another embodiment, the light could have a selection of switches, such as DIP switches enabling it to operate in a stand-alone mode, where a desired color temperature can be selected using the switches, and changed by alteration of the stand alone product. The light could also be remotely programmed to operate in a standalone mode as discussed above [Page 17, Paragraph 188].”

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the exit sign of Schwartz to incorporate the DIP switch of Mueller so as to provide a quick, simple (single component) means in controlling color temperature, and thus enhance visibility or ostentatiously provide different warning illuminations.

39. Claims 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz (U.S. Patent 5697175).

40. With regards to Claim 29, Schwartz discloses the claimed invention as cited above. In addition, Schwartz teaches the means for passing light in the form of indicia being a stencil defining light passageway openings forming said indicia [Figure 1; Column 5, Line 62 – Column 6, Line 2], whereby said light passing through said light passageway openings enable viewing of said indicia by an observer [Column 6, Lines 37-44]. Though Schwartz does not specifically teach the stencil being non-transparent, it would have been an obvious matter of design choice to modify the stencil to be non-transparent. In this case, a non-transparent stencil would provide a simple and

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inexpensive means to distinguish said indicia via contrast between said non-transparent areas and the light passageway openings.

41. With regards to Claim 30, Schwartz discloses the means for passing light in the form of indicia being a translucent stencil [Figure 1] having transparent areas forming said indicia [Column 6, Lines 28-36], but does not specifically teach the translucent stencil having non-transparent areas. However, it would have been an obvious matter of design choice to modify the stencil to incorporate the non-transparent areas, so as to provide a simple and inexpensive means to contrast the indicia with the background/non-transparent areas.

42. Claims 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz (U.S. Patent 5697175) as applied to Claim 27 above, and further in view of Mueller et al. (U.S. Publication 2003/0133292).

Schwartz discloses the claimed invention as cited above, but does not specifically teach the means for selective activation of said plurality of bicolor LEDs to produce either of said red light or said green light being a two-position DIP switch (re: Claim 34), nor teaches said DIP switch including the capability to simultaneously activate both said red light and said green light of said plurality of bicolor LEDs so as to produce yellow light (re: Claim 35).

Mueller teaches, "These equations may be applied directly or may be used to create a look-up table so that binary values corresponding to a particular color temperature can be determined quickly. This table can reside in any form of programmable memory for use in controlling color temperature (such as, but not limited

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to, the control described in U.S. Pat. No. 6,015,038). In another embodiment, the light could have a selection of switches, such as DIP switches enabling it to operate in a stand-alone mode, where a desired color temperature can be selected using the switches, and changed by alteration of the stand alone product. The light could also be remotely programmed to operate in a standalone mode as discussed above [Page 17, Paragraph 188].”

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the exit sign of Schwartz to incorporate the DIP switch of Mueller so as to provide a quick, simple (single component) means in controlling color temperature, and thus enhance visibility or ostentatiously provide different warning illuminations.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

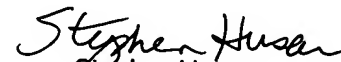
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (8/2/2005)

  
Stephen Husar  
Primary Examiner